

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERNEST C. MARTINEZ and U.S. POSTAL SERVICE,
POST OFFICE, Denver, CO

*Docket No. 97-2855; Submitted on the Record;
Issued August 24, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on or about October 16, 1995, causally related to his September 27, 1995 employment injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability causally related to his September 27, 1995 employment injury.

On September 27, 1995 appellant sustained an injury in the performance of duty when the door on his van fell and struck him on the head. He was treated that same day for a laceration and contusion and was cleared to resume his full-time duties the following day. The Office of Workers' Compensation Programs accepted appellant's claim for a laceration and a contusion to the head. On November 5, 1996 approximately 13 months after his initial employment injury, appellant filed a notice of recurrence of disability (Form CA-2a) alleging that he sustained a recurrence of disability on October 16, 1995. He described his condition as "really bad headaches" and dizziness. The Office subsequently advised appellant of the need for additional factual and medical information in order to render a determination regarding his claim for recurrence. In response, the Office received a November 18, 1996 report from Dr. Gerald C. McIntosh, a Board-certified psychiatrist and neurologist, as well as his treatment notes covering the period of December 3, 1996 through January 20, 1997.¹ Dr. McIntosh also prepared several duty status reports (Form CA-17) in which he found appellant fit to perform his regular, full-time duties, but also noted a diagnosis of post-traumatic headaches due to appellant's September 1995

¹ In his November 18, 1996 report, Dr. McIntosh noted a history of an employment-related head injury in September 1995 and the onset of headaches about a month after the injury. He reported a normal clinical examination and provided a diagnosis of left perivertex headaches. Dr. McIntosh further noted that the headaches tend to last for 15 to 20 minutes and are quite severe. He further commented that "[t]his is a very strange headache condition that is very reminiscent of paroxysmal hemicrania with a short duration that occurs several times a day."

injury. The Office also received an October 22, 1996 x-ray of the cervical spine, which revealed degenerative changes at C3-4 and C4-5 and a November 26, 1996 computerized tomography scan of the brain, which was interpreted as normal. Lastly, appellant provided a brief statement indicating that he had not missed any work as a result of his September 1995 injury and was currently working full time. He also noted that he sustained a foot injury subsequent to his initial head injury.

By decision dated March 17, 1997, the Office denied appellant's claim on the basis that the evidence failed to demonstrate that the claimed recurrence of disability was causally related to the injury of September 27, 1995. Appellant subsequently filed an appeal with the Board on September 8, 1997.²

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.³ This burden includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that the condition is causally related to the employment injury.⁴ The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁵ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁶ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁷

Appellant alleged that he began experiencing headaches and dizziness approximately two and a half weeks after he sustained an employment-related head injury on September 27, 1995. However, the first documented medical evidence of this condition is dated more than a year after the alleged date of onset. Thus, the record lacks adequate bridging evidence to establish a causal relationship between appellant's current condition and his previously accepted employment

² The record on appeal includes evidence that was not submitted to the Office prior to the issuance of its March 17, 1997 decision. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c).

³ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁴ Section 10.121(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician's report should include the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions and the prognosis. 20 C.F.R. § 10.121(b).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁶ For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 3; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

⁷ See *Robert H. St. Onge*, *supra* note 3.

injury. Moreover, while Dr. McIntosh consistently described appellant's condition as post-traumatic headaches due to his September 1995 employment injury, he failed to provide any explanation as to how appellant's initial employment injury caused or aggravated his current condition of severe perivertex headaches. A physician's mere conclusion without explanation or medical reasoning does not rise to the level of rationalized medical opinion evidence.⁸ Accordingly, Dr. McIntosh's various reports and treatment records are insufficient to satisfy appellant's burden. Inasmuch as the remainder of the record is similarly insufficient to establish that appellant sustained a recurrence of disability causally related to his September 27, 1995 employment injury, the Office properly denied compensation.

The March 17, 1997 decision of the Office of Workers' Compensation Programs is, hereby, affirmed.

Dated, Washington, D.C.
August 24, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

⁸ *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (the Board found that a medical opinion not fortified by medical rationale is of little probative value).